

## REMARKS

The claims in the application are 1-10 and Claims 11 and 12 added by the present amendment.

Favorable reconsideration of the application as amended is respectfully requested.

The claims have been amended to eliminate the formal rejections under 35 U.S.C. §112, second paragraph, raised on pages 3-4 of the Office Action. Claims 11 and 12 are directed to recitation deleted from Claim 2.

Concerning the objection to the specification under 37 C.F.R. §1.71(a) and concomitant rejection of Claims 2 and 5 under 35 U.S.C. §112, first paragraph, raised on page 2 of the Office Action, it is respectfully pointed out Figs. 5 and 6 clearly and unequivocally illustrate magnets 1 contacting germanium-containing biotite 2, are filled in box-shaped detail 11 (reference is being made to preferred embodiments of the present invention illustrated in the drawings of the present application). In this regard, independent Claim 5 has been amended to recite that, as shown in Figs. 5 and 6, the magnet 1 having the north pole coated with germanium-containing biotite 2, is filled in the box-shaped retainer 11 with the north pole facing the direction in which the auxiliary details protrude to clamp onto the pipe.

Furthermore, it is unclear why Claim 2 has been rejected under 35 U.S.C. §112, first paragraph for this reason, since Claim 2 is directed to a generic method and not specifically to the features shown in Figs. 5 and 6. Moreover, it is respectfully submitted bonding or attaching germanium-containing biotite 2 to a magnet 1 most certainly constitutes bringing the biotite in close proximity to the magnet 1, so the specification most certainly constitutes an enabling teaching of the invention recited in Claim 1; hence the

enabling rejection of Claim 1 under 35 U.S.C. §112, first paragraph, should also be withdrawn.

It is also respectfully submitted one skilled in the art, by studying the disclosure of the present invention contained in the present application, can easily comprehend implanting on or in a mammal, magnets 1 having the germanium-containing biotite 2 to promote blood flow as recited in Claim 10, thus satisfying the requisites of 35 U.S.C. §112, first paragraph. Accordingly, the only outstanding issue is the art rejection of the claims.

On page 6 of the Office Action, Claim 10 has been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,882,292 to Miyaguchi. On page 7 of the Office Action, Claims 1-9 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent Publication 2003/0196946 to Denzer in view of U.S. Patent No. 4,605,498 to Kulish and either U.S. Patent No. 4,976,706 to Aki et al. or Miyaguchi. On page 9 of the Office Action, Claim 10 has been rejected under 35 U.S.C. §103(a) as being obvious over Aki et al. in view of Miyaguchi. However, it is respectfully submitted all claims pending herein recite patentable subject matter over the applied art, for the following reasons.

Concerning the obviousness rejection of Claims 1-9, Denzer fails to teach or suggest the poles of the magnets are opposed as recited in independent Claim 1. Moreover, none of the subordinate references teaches or suggests use of germanium-including biotite granules as an infrared-emitting source in combination with the magnets as claimed.

More specifically, Kulish is directed to applying a magnetic field for descaling or deliming an inner wall of a conduit, by directing one of the poles of a plurality of magnets toward the conduit inner wall. In the present invention, the north poles of the magnets 1,

which constitute the source of emitting magnetic lines, are located opposite each other, with the repulsive magnetic force allowed to reach the center of the conduit so that water flowing through the conduit is subjected to the germanium-containing biotite providing far infrared radiation, i.e., providing resonant oscillation to the flowing water.

In particular, the germanium-containing biotite is located in close proximity to the N-N repulsive field in the claimed arrangement. Thus, far infrared-emission can be accomplished with a fairly small amount of germanium content (less than 50 ppm). Accordingly, even if, hypothetically, Kulish is combined with the other art (Miyaguchi, Aki et al, Denzer), such a combined teaching still fails to suggest the invention being claimed herein.

Moreover, Denzer merely discloses conventional orienting of a north-south magnetic field for magnetically-activating water, and just generally mentions far infrared radiation is provided by a "ceramic powder" 11 coated upon the outer surface of the tube, without further specifying what type of ceramic powder is used (many ceramics intrinsically emit far infrared radiation in trace amounts). Accordingly, the combination of Denzer with any other subordinate references fails to suggest the features of the presently claimed invention and accompanying advantages attained thereby as documented, e.g., in the comparative testing set forth throughout the present application.

Concerning the rejection of Claim 10, Miyaguchi fails to disclose presence of (i) the specific germanium-containing biotite, (ii) ferromagnetic powder, and (iii) magnets oriented with inwardly-facing north poles. More specifically, Miyaguchi shows a treatment sheet in which a magnetic powder 2 is only bonded to a sheet support 1. Accordingly, specific orientation of magnetic force as recited in Claim 10 is neither disclosed nor suggested by Miyaguchi. Furthermore, there is no explicit teaching or even suggestion of incorporating

the germanium-containing biotite as recited in Claim 10. Accordingly, Miyaguchi fails to anticipate Claim 10.

Moreover, Aki et al disclose separate germanium and ceramic components, but fail to teach or suggest the specifically-claimed germanium-containing biotite. In other words, in Aki et al germanium powder and infrared-emitting ceramic are separately mixed into a sheet support. However, as with Miyaguchi, Aki et al fails to teach the specifically-claimed germanium-containing biotite arranged upon the specifically-oriented magnets of the present invention. Accordingly, the combination of Aki et al with Miyaguchi fails to render Claim 10 obvious.

The remaining art of record has not been applied against the claims and will not be commented upon further at this time.

Accordingly, in view of the forgoing amendment and accompanying remarks, it is respectfully submitted all claims pending herein are in condition for allowance. Please contact the undersigned attorney should there be any questions. A petition for an automatic two month extension of time for response under 37 C.F.R. §1.136(a) is enclosed in triplicate, together with the requisite petition fee.

Early favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "George M. Kaplan", is written over a horizontal line.

George M. Kaplan  
Reg. No. 28,375  
Attorney for Applicant(s)

**DILWORTH & BARRESE, LLP**  
333 Earle Ovington Blvd.  
Uniondale, New York 11553  
Phone: 516-228-8484  
Facsimile: 516-228-8516